

**2005 DRAFTING REQUEST**

**Bill**

Received: 09/10/2004

Received By: **pgrant**

Wanted: **As time permits**

Identical to LRB:

For: **Debra Towns (608) 266-9650**

By/Representing: **Joyce Kiel**

This file may be shown to any legislator: **NO**

Drafter: **pgrant**

May Contact:

Addl. Drafters:

Subject: **Education - school boards**

Extra Copies: **MJL**

Submit via email: **YES**

Requester's email: **Rep.Towns@legis.state.wi.us**

Carbon copy (CC:) to: **Joyce.Kiel@legis.state.wi.us**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

School district investment options

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pgrant 09/10/2004	wjackson 09/20/2004		_____			
/1			jfrantze 09/21/2004	_____	lnorthro 09/21/2004	sbasford 02/14/2005	

FE Sent For:

*none needed*

<END>

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/?	pgrant 09/10/2004	wjackson 09/20/2004					
/1			jfrantze 09/21/2004		Inorthro 09/21/2004		

***LRB-0176***

09/21/2004 11:39:18 AM

Page 2

FE Sent For:

<END>

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1?

pgrant

1 mj 9/20

6/9/21

6/9/21  
9/21

FE Sent For:

<END>

**Grant, Peter**

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**From:** Kiel, Joyce  
**Sent:** Friday, September 10, 2004 10:15 AM  
**To:** Grant, Peter  
**Cc:** Rep.Towns; Langan, Casey  
**Subject:** LRB 03-4642/1

Peter:

Following our discussion, I got information from DPI about employee benefits fund 73 requirements and how "post-employment benefits" are defined for that purpose, and I also talked to Rep. Towns about whether it is necessary to have separate provisions for the MPS pension funds and for the "post-employment benefits" referred to in the draft. (The treatment of both is the same.) The draft LRB-4642/1 has the former in s. 66.0603 (1m) (b) 2. and (3) (a) and the latter in s. 66.0603 (1m) (b) 3. and (3) (b). The basic question is whether the MPS pension funds are a subset of "post-employment benefits." If they are, it doesn't make sense to have a separate provision. If they are not, it does make sense to refer to them separately.

The draft does not define "post-employment benefits." According to DPI staff, they interpret the MPS pension funds as not being a subset of "post-employment benefits" for purposes of Fund 73. Attached is the information provided by DPI from the July 2004 Journal of Accountancy as to what is included as post-employment benefits for this purpose.

In order to avoid ambiguity, Rep. Towns thinks a definition of "post-employment benefits" for purposes of the new provisions might be useful and that it should be based on the provisions in item 6 of the Journal of Accountancy.

As in the /1 draft, it should be clear with respect to both that the provisions do not apply to funds held in the public employee trust fund.

When you have the /2 draft prepared, would you please send me a copy too.

Thanks,

Joyce L. Kiel, Senior Staff Attorney  
 Wisconsin Legislative Council Staff  
 Suite 401, One East Main Street  
 Madison, WI 53703  
 608-266-3137  
 608-266-3830 (fax)  
 Joyce.Kiel@legis.state.wi.us

-----Original Message-----

**From:** Barman, Mike  
**Sent:** Thursday, August 19, 2004 10:03 AM  
**To:** Kiel, Joyce  
**Subject:** Draft review: LRB 03-4642/1 Topic: School district investment options

**Draft Requester: Debra Towns**

**Following is the PDF version of draft LRB 03-4642/1.**

09/10/2004

## OFFICIAL RELEASES

5. This Statement also applies to financial reporting for funds that are used to accumulate assets and to pay benefits in a multiple-employer OPEB plan that does not meet the criteria stated in the preceding paragraph. Paragraph 41 discusses reporting requirements for such plans. This Statement does not apply to assets that an employer earmarks for OPEB purposes within its governmental or proprietary funds by designation of fund balance(s) or net assets or to assets that an employer transfers to and accumulates in a separate governmental or proprietary fund for that purpose.

6. OPEB plans are plans that provide:

a. *Postemployment healthcare benefits, either separately or through a defined benefit pension plan.* Postemployment healthcare benefits include medical, dental, vision, hearing, and other health-related benefits. For financial reporting purposes, postemployment healthcare benefits provided through a defined benefit pension plan, and the assets accumulated by the plan for the payment of postemployment healthcare benefits, are considered, in substance, a postemployment healthcare plan administered by, but not part of, the pension plan.

b. *Other forms of postemployment benefits, when provided separately from a defined benefit pension plan.* Examples include life insurance, disability, long-term care, and other benefits if provided as compensation for employee services rendered. Such forms of benefits are considered pensions when provided through a defined benefit pension plan.

7. The requirements of this Statement address financial reporting by defined benefit OPEB plans and defined contribution plans. Defined benefit OPEB plans are plans having terms that specify the benefits to be provided at or after separation from employment. The benefits may be specified in dollars (for example, a flat dollar payment or an amount based on one or more factors such as age, years of service, and compensation), or as a type or level of coverage (for example, prescription drugs or a percentage of healthcare insurance premiums). In contrast, a defined contribution plan is a plan having terms that (a) provide an individual account for each plan member and (b) specify how contributions in an active plan member's account are to be determined, rather than the income or other benefits the member or his or her beneficiaries are to receive at or after separation from employment. In a defined contribution plan, those benefits will depend only on the amounts contributed to the member's account, earnings on investments of those contributions, and forfeitures of contributions made for other members that may be allocated to the member's account. An OPEB plan may have both defined benefit and defined contribution characteristics. If the plan provides a defined benefit in some form—that is, if the benefit to be provided is a function of factors other than the amounts contributed and amounts earned on contributed assets—the provisions of this Statement for defined benefit plans apply.

8. The provisions of this Statement apply whether the plan is a single-employer, agent multiple-employer, or cost-sharing multiple-employer plan and regardless of how or when OPEB provided by the plan is financed. The requirements apply whether:

a. The plan's financial statements are included in a separate financial report issued by the plan or by the PERS or other entity that administers the plan (stand-alone plan financial report)

b. The plan is included as a trust or agency fund or a fiduciary component unit in the statement of fiduciary net assets and statement of changes in fiduciary net assets of the plan sponsor or employer.

9. OPEB arises from an exchange of salaries and benefits for employee services, and it is part of the compensation that employers offer for services received. In contrast, *termination offers and benefits* are inducements offered by employers to employees to hasten the termination of services, or payments made in consequence of the early termination of services. Because they are different in nature from OPEB, termination offers and benefits—including special termination benefits as defined in National Council on Governmental Accounting (NCGA) Interpretation 8, *Certain Pension Matters*, early-retirement incentive programs, and other termination-related benefits—are generally excluded from the scope of this Statement, regardless of who provides or administers them. However, the effects, if any, of an employee's acceptance of a special termination offer on OPEB obligations incurred through an existing defined benefit plan (for example, an increase in the employer's obligation to provide postemployment healthcare benefits) should be accounted for in accordance with the requirements of this Statement and the related Statement.

10. Conversion of a terminating employee's unused sick leave credits to an individual account to be used for payment of postemployment benefits on that person's behalf is a *termination payment*, as the term is used in Statement No. 16, *Accounting for Compensated Absences*. The portion of sick leave expected to be compensated in that manner should be accounted for as a compensated absence in accordance with the requirements of that Statement. However, when a terminating employee's unused sick leave credits are converted to provide or to enhance a defined benefit OPEB (for example, postemployment healthcare benefits), the resulting benefit or increase in benefit should be accounted for in accordance with the requirements of this Statement and the related Statement.

11. This Statement supersedes footnote 3 of GASB Statement 25; GASB Statement No. 26, *Financial Reporting for Postemployment Healthcare Plans Administered by Defined Benefit Pension Plans*; and footnote 18 of GASB Statement No. 27, *Accounting for Pensions by State and Local Governmental Employers*. In addition, it amends the authoritative guidance in paragraph 5 of NCGA Interpretation No. 6, *Notes to the Financial Statements Disclosure*; paragraph 81 of GASB Statement No. 14, *The Financial Reporting Entity*; paragraphs 4, 26, 42, and 44 and footnotes 5 and 16 of GASB Statement 25; paragraph 2 of GASB Statement 27; paragraph 4 of GASB Statement No. 31, *Accounting and Financial Reporting for Certain Investments and for External Investment Pools*; and paragraphs 106 through 109, 140, and 141 and footnotes 43 and 44 of GASB Statement No. 34, *Basic Financial Statements—and Management's Discussion and Analysis—for State and Local Governments*, with regard to financial reporting for OPEB plans.

## Public Employee Retirement Systems

12. Many PERS administer more than one employee benefit plan, including defined benefit OPEB plans, as well as, for example, defined benefit pension plans, defined contribution plans, and deferred compensation plans. As used in this Statement, the term *public employee retirement system* refers to a state or local governmental fiduciary entity entrusted with administering a plan (or plans), and not to the plan itself. This Statement does not address the financial reports of PERS, except to the extent that the systems' reports include financial statements for defined benefit OPEB plans and defined contribution plans. Financial reporting requirements for special-purpose governments engaged only in fiduciary activities (including the requirement to present management's discussion and analysis, or MD&A) are discussed in Statement 34, as amended.

13. When the financial report of a PERS includes more than one defined benefit OPEB plan, the provisions of this Statement apply separately to each plan administered. That is, the system's report should present combining financial statements and required schedules for all defined benefit OPEB plans administered by the system. If the system administers one or more agent multiple-employer plans (agent plans), the provisions of this Statement apply at the aggregate plan level for each plan administered. The system is not required to include financial statements and schedules for the individual plans of the participating employers.<sup>2</sup>

14. The principles described in this paragraph should be applied in determining whether a PERS is administering a single plan or more than one plan for which paragraph 13 requires separate reporting.

a. A PERS is administering a single plan if, on an ongoing basis, all assets accumulated for the payment of benefits may legally be used to pay benefits, including refunds of member contributions, to any of the plan members or beneficiaries, as defined by the terms of the plan. If this criterion is met, the plan is considered a single plan for financial reporting even if (1) the system is required by law or administrative policy to maintain separate reserves, funds, or accounts for specific groups of plan members, employers, or types of benefits (for example, a reserve for plan member contributions, a reserve for disability benefits, or separate accounts for the contributions of state government versus local government employers) or (2) separate actuarial valuations are performed for different classes of covered employees or groups (tiers) within a class because different contribution rates may apply for each class or group depending on the applicable benefit structures, benefit formulas, or other factors.

b. A PERS is administering more than one plan if any portion of the total assets administered by the system is accumulated solely for the payment of benefits to certain classes of employees or to employees of certain entities (for example, public safety employees or state government employees) and may not legally be used to pay

<sup>2</sup> Throughout this Statement, the terms *agent multiple-employer plan* and *agent plan* refer to the aggregate of the individual plans of all participating employers. For agent plans, references to plan, single plan, each plan, and so forth, should be interpreted in that context.

# RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: 09-21-04) (Date: PG /     /    )



☐ Please transfer the drafting file for

2003 LRB -4642 to the drafting file

for 2005 LRB -0176

☒ The final version of the 2003 draft and the final Request Sheet will be copied on yellow paper, and returned to the original 2003 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

☒ For research purposes, because the 2003 draft was incorporated into a 2005 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2005 drafting file. This request form will be inserted into the "guts" of the 2005 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

**OR**

☐ Please copy th

2005 LRB /    

drafting file for **2005** !

Please move file  
contents from  
03-4642  
to  
05-0176.  
Thanks.

☒ For research purposes, because the original 2005 dra...  
draft, the original drafting file will be copied on yellow paper (darkened/au...  
as a separate appendix, to the new 2005 drafting file. This request form will be...  
the new 2005 draft. If introduced the appendix will be scanned/added to the electronic...  
2005  
added,  
"guts" of  
file folder.

☒ The original drafting file will then returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.

4RB-0176 /  
PG:wlj:

500n

2003 BILL

↑ other than funds held in the public employee trust fund, ↑

Regen

1 AN ACT ~~to renumber~~ 66.0603 (3); *to renumber and amend* 66.0603 (1m) (b);  
2 *to amend* 119.04 (1); and *to create* 66.0603 (1m) (b) 3. and 66.0603 (3) (b) of  
3 the statutes; **relating to:** the investment by school districts of funds held in  
4 trust to provide post-employment benefits.

***Analysis by the Legislative Reference Bureau***

Current law restricts the manner in which a school district may invest its funds. This bill authorizes a school district to invest and reinvest funds that are held in trust solely to provide post-employment benefits in the manner provided under the Uniform Prudent Investor Act, which took effect in Wisconsin on April 30, 2004.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

Please  
Fix  
Comp.

5 SECTION 1. 66.0603 (1m) (b) of the statutes, as affected by 2003 Wisconsin Act

6 264 is renumbered 66.0603 (1m) (b) 1. and amended to read:

7 66.0603 (1m) (b) 1. A town, city, or village may invest surplus funds in any  
8 bonds or securities issued under the authority of the municipality, whether the bonds

## BILL

## SECTION 1

1 or securities create a general municipality liability or a liability of the property  
2 owners of the municipality for special improvements, and may sell or hypothecate  
3 the bonds or securities. Funds of an employer, as defined by s. 40.02 (28), in a  
4 deferred compensation plan may also be invested and reinvested in the same manner  
5 authorized for investments under s. 881.01.

6 2. Funds of any school district operating under ch. 119, held in trust for pension  
7 plans intended to qualify under section 401 (a) of the Internal Revenue Code, other  
8 than funds held in the public employee trust fund, may be invested and reinvested  
9 in the same manner as is authorized for investments under s. 881.01.

10 **SECTION 2.** 66.0603 (1m) (b) 3. of the statutes is created to read:

11 66.0603 (1m) (b) 3. A school district may invest and reinvest funds that are held  
12 in trust, other than funds held in the public employee trust fund, solely to provide  
13 ~~post-employment~~ <sup>health care</sup> benefits, in the same manner as is authorized for investments  
14 under s. 881.01. *any of the following*

15 **SECTION 3.** 66.0603 (3) of the statutes is renumbered 66.0603 (3) (a).

16 **SECTION 4.** 66.0603 (3) (b) of the statutes is created to read:

17 66.0603 (3) (b) In addition to the authority granted under sub. (2), a school  
18 district may delegate the investment authority over the funds described under sub.  
19 (1m) (b) 3. to an investment manager who meets the requirements and qualifications  
20 specified in the trust's investment policy and who is registered as an investment  
21 adviser under 15 USC 80b-3.

22 **SECTION 5.** 119.04 (1) of the statutes is amended to read:

23 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),  
24 66.0603 (1m) to (3). 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,  
25 115.345, 115.361, 115.38 (2), 115.45, 118.001 to 118.04, 118.045, 118.06, 118.07,

**BILL**

1 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153, 118.16, 118.162,  
2 118.163, 118.164, 118.18, 118.19, 118.20, 118.24 (1), (2) (c) to (f), (6) and (8), 118.245,  
3 118.255, 118.258, 118.291, 118.30 to 118.43, 118.51, 118.52, 118.55, 120.12 (5) and  
4 (15) to (26), 120.125, 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35) and  
5 (37), 120.14 and 120.25 are applicable to a 1st class city school district and board.

6 (END)

2-14

It is <sup>post-employment</sup> health care benefits <sup>provided</sup> (either separately or

through a defined benefit pension plan.)

It is <sup>post-employment</sup> other <sup>benefits</sup> <sup>separately</sup> <sup>provided</sup> from a defined benefit pension plan.

## **Northrop, Lori**

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**From:** Langan, Casey  
**Sent:** Friday, February 11, 2005 11:35 AM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-0176/1 Topic: School district investment options

It has been requested by <Langan, Casey> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-0176/1 Topic: School district investment options



State of Wisconsin  
LEGISLATIVE REFERENCE BUREAU

**RESEARCH APPENDIX -**  
**PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 02/24/2005 (Per: PG)



☞ The 2005 drafting file for LRB 05-0176/?  
has been copied/added to the 2005 drafting file for  
**LRB 05-2261**

☞ The attached 2005 draft was incorporated into the new 2005 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2005 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2005 drafting file. The drafting file was then returned, intact, to its folder and filed.